

Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Civil DIVISION

Kenneth E. Davis

versus

Kroger Company

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§

CIVIL ACTION NO. 13-13112-2221

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is:

Kenneth E. Davis

Address:

9911 Paddock Park Dr.

Houston, Texas 77065

County of Residence:

Harris

3. The defendant is:

The Kroger Company

Address:

1014 Vine Street

Cincinnati, Ohio 45202-1100

☐ Check here if there are additional defendants. List them on a separate sheet of paper with their complete addresses.

4. The plaintiff has attached to this complaint a copy of the charges filed on 11-21-2011 with the Equal Opportunity Commission.

5. On the date of 6-25-2013, the plaintiff received a Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission; a copy is attached.

6. Because of the plaintiff's:

- (a) ☒ race
- (b) ☐ color
- (c) ☐ sex
- (d) ☐ religion
- (e) ☐ national origin,

the defendant has:

- (a) ☐ failed to employ the plaintiff
- (b) ☒ terminated the plaintiff's employment
- (c) ☐ failed to promote the plaintiff
- (d) ☐ other: _____

7. When and how the defendant has discriminated against the plaintiff:

On October 13, 2011, after I opposed racial
discrimination at the workplace and
was terminated.

8. The plaintiff requests that the defendant be ordered:

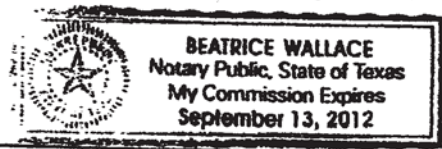
- (a) ☐ to stop discriminating against the plaintiff
- (b) ☐ to employ the plaintiff
- (c) ☐ to re-employ the plaintiff
- (d) ☐ to promote the plaintiff

- (e) ☒ to pay compensatory and punitive damages along with backpay and future wages and that;
- (f) ☒ the Court grant other relief, including injunctions, damages, costs and attorney's fees.

Kenneth E. Deros
(Signature of Plaintiff)

Address: 9911 Paddock Park Dr.
Houston, Texas 77065

Telephone: 281-970-6342

State or local Agency, if any			
Name (Indicate Mr., Ms., Mrs.) Kenneth E. Davis		Home Phone (Incl. Area Code) (281) 807-3149	Date of Birth 02-06-1966
Street Address 9911 Paddock Park Drive, Houston, TX 77065		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name KROGER		No. Employees, Members 500 or More	Phone No. (Include Area Code) (281) 894-7094
Street Address 9330 Jones Road, Houston, TX 77065		City, State and ZIP Code	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		Earliest Latest 10-13-2011 10-13-2011 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
I. On October 13, 2011, I was wrongfully discharged from my position as Night Stocker. I was discharged after I opposed racial discrimination at the workplace. I had informed Alex Johnson, Grocery Manager that I felt it was discriminatory for him to reprimand Black employees for alleged infractions White employees committed with impunity. II. On October 13, 2011, Mr. Johnson ordered me to leave the workplace for allegedly refusing to complete a task. On October 26, 2011, Heather L/N/U, Store Manager, informed me I had been discharged on October 13, 2011 for "Insubordination—not doing what he was told and he walked out." When I later contacted the Human Resource Department to inquire about my job status, they confirmed I had been discharged. III. I believe I have been retaliated against for opposing an action protected by the EEOC, in violation of Title VII of the Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY <i>When necessary for State and Local Agency Requirements</i>  <i>Beatrice Wallace</i> I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT <i>Kenneth E. Davis</i> SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) 11-21-11	
Date Nov 21, 2011		Charging Party Signature <i>Kenneth E. Davis</i>	

Houston, TX 77065

1201 Louisiana, Suite 600
Houston, TX 77002On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2012-00527

Jeremy Crosbie,
Investigator

(713) 651-4919

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

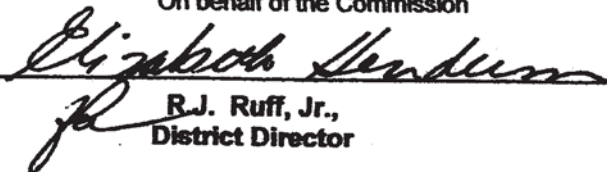
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission

Enclosures(s)



R.J. Ruff, Jr.,
District Director

JUN 25 2013

(Date Mailed)

cc:

Keenya R. Harrold
Associate
COZEN - O'CONNOR
1 Houston Center
1221 McKinney, Suite 2900
Houston, TX 77010

Lowell Kaig, Executive Director
TWC - Civil Rights Division
101 East 15th Street, Room 144-T
Austin, TX 78778-0001